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OFFICE OF PETITIONS

In re Application of :
Teets & Teets :
Application No. 10/712,917 :
Filed: November 13, 2003 :
Attorney Docket No. 3419-032151 :
For: AN ELECTRICITY GENERATING
SYSTEM HAVING AN ANNULAR
COMBUSTOR

ON PETITION

This is a decision on the petition under 37 CFR 1.47(b), filed October 12, 2006. The petition will be treated as a petition under CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which requires all of the joint inventors to execute a supplemental declaration.¹

The petition under 37 CFR 1.183 to waive 37 CFR 1.67 is **DISMISSED**.

The petition under 37 CFR 1.47(b) is **DISMISSED AS MOOT**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

While this waiver petition is not a petition under 37 CFR 1.47, it is evaluated in much the same way a Rule 47 petition is. A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
- (2) an acceptable oath or declaration;

¹ Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal or unavailability to sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest; and
- (6) proof of irreparable damage.

This petition lacks item (1).

With respect to item (1), Applicant has failed to establish that non-signing inventors J. Michael Teets and John W. Teets have refused to join in the filing of the supplemental declaration. A statement of facts by Margaret V. Merton, employee of Elliott Energy System, Inc., establishes that the supplemental declaration was sent to J. Michael Teets only.

The Office requires petitioner to send a copy of the currently pending claims and a supplemental declaration to both joint inventors, along with a request that the inventors return an executed declaration.

The inventors cannot attest to their lack of deceptive intent as to every error corrected in the application if the inventors are not aware of the changes made to the application. Their signatures on the Declaration would obligate them, under penalty of "fine or imprisonment, or both" to particulars to which they can only attest after having had the opportunity to review changes to the application.

When petitioner can show that each inventor was mailed or received the complete application and that each either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioner will have satisfied this requirement.

Regarding fees, deposit account no. 23-0650 will be charged the current Rule 183 petition fee of \$400.00.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
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By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

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